THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION No. 8299 of 2006

Date: 13-06-2006.

Between :

P.Narendar.

…..Petitioner

And

The Disciplinary Authority/Principal District & Sessions Judge, Khammam.

…..Respondent.

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION No. 8299 of 2006

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties. With their consent the writ petition is disposed of at this stage.

The petitioner is working in the Judicial department as Copyist and has been ordered to be retired prematurely. It appears that five enquiries are pending against the petitioner. Without waiting for the result of the enquiries, the learned District Judge has ordered compulsory retirement of the petitioner on the ground of misconduct. Surprisingly, the District Judge has passed a 31-page order, in which he has relied on certain allegations and referred to those allegations as facts, which were alleged against the petitioner in certain criminal proceedings. The petitioner got acquittal in all the cases filed against him, but still, the learned Sessions Judge took the facts of those charge sheets as facts and attributed many things to the petitioner, which were not proved against him like, *"He is a criminal activist, he was involved in a murder case and has committed murder of his own father-in-law with an intention to grab his property and maintain illicit intimacy with teenage daughters of the deceased by dominating their family affairs."* There are so many such instances.

It is true that even after acquittal in a criminal case, the department may proceed against a delinquent-officer and in this case also it appears that certain inquiries are pending against the petitioner, but without waiting for the result of those inquiries, the learned District Judge passed the order compulsorily retiring the petitioner on the ground of misconduct. Without an inquiry having been completed, the petitioner could not have been retired compulsorily as it amounts to punishment and under APCCA Rules, compulsory retirement is a major punishment and cannot be ordered save after an inquiry. All sorts of allegations have been levelled by the District Judge against the petitioner and then ordered his retirement, therefore, the premature retirement cannot be a case of removing the dead wood. The order itself is sufficient to show that it has been passed by way of punishment without the inquiries having been completed. It appears that the learned District Judge was also not aware of the law and he has also not restrained himself from making allegations against the petitioner, in the impugned order, which are *ex facie* defamatory.

For these reasons, we allow the writ petition and set aside the impugned order. The copy of this order and the copy of the order passed by the Sessions Judge shall be placed before the Hon'ble Chief Justice, who may consider taking action against the Sessions Judge for having passed the impugned order. The respondents are however, at liberty to complete the inquiries against the petitioner and pass appropriate orders thereafter.

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(BILAL NAZKI, J)

13th June 2006

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(M.VENKATESWARA REDDY, J)

ajr